IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.12.2007

CORAM :

THE HON'BLE MR. JUSTICE S.TAMILVANAN

A.S.No.248 of 1996

and

A.S.No.647 of 1997

A.S.No.248/1996:

The Special Tahsildar,
(Adi Dravidar Welfare),
Kangeyam. ... Appellant/Referring Officer

vs.

Subburaya Gounder ... Respondent/Claimant

A.S.No.647/1997:

Subburaya Gounder ... Appellant/Claimant

vs.

The Special Tahsildar,
(Adi Dravidar Welfare),
Kangeyam. ... Respondent/Referring Officer

Appeals are filed against the Judgment and Decree dated 01.02.1994 made in L.A.O.P.No.2 of 1992 on the file of the Subordinate Judge, Dharapuram.

In A.S.No.248/1996:

For Appellant : Mr.V.Ravi,
Special Government Pleader (AS)
For Respondent : Mr. B.Eswaran
for M/s. B.Bagyalakshmi

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In A.S.No.647/1997:

For Appellant : Mr. B.Eswaran
for M/s. B.Bagyalakshmi

For Respondent : Mr.V.Ravi,
Special Government Pleader (AS)

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COMMON JUDGMENT

The Appeal in A.S.No.248 of 1996 has been preferred by the appellant/ Special Tahsildar against the Judgment and Decree dated 01.02.1994 made in L.A.O.P.No.2 of 1992 on the file of the Land Acquisition Tribunal/Subordinate Judge, Dharapuram.

2.The Appeal in A.S.No.647 of 1997 has been preferred by the appellant/claimant against the Judgment and Decree dated 01.02.1994 made in L.A.O.P.No.2 of 1992 on the file of the Land Acquisition Tribunal/Subordinate Judge, Dharapuram.

3. It is not in dispute that the land in question is 0.51.0 hectares, bearing S.No.1314/7-B, situated in Kangeyam village, which was acquired by the Special Tahsildar (Land Acquisition) (Adi Dravidar Welfare), Kangeyam for the purpose of constructing residential houses for the people belonged to Adi Dravidar community.

4.The Land Acquisition Officer had fixed the compensation at Rs.60,000/- per acre for the acquired land and awarded compensation of Rs.13,099/-. As the respondent/claimant in A.S.No.248/1996 received the amount under protest stating that the compensation awarded was inadequate, hence it was referred by the appellant in A.S.No.248/1996-the Referring Officer under Section 18(1) of the Land Acquisition Act.

5.It is seen from the impugned judgment that before the Trial Court, the respondent/claimant in A.S.No.248/1996 was examined as C.W.1 apart from examining C.W.2. On the side of the claimant, copy of the sale deeds Exs.C.1 and C.2 dated 10.02.1988 and 05.09.1991 respectively were also marked. The Land Acquisition Officer (Special Tahsildar), Kangeyam was examined as R.W.1. The award dated 26.11.1991 passed by R.W.1 was marked as Ex.R.1. According to the said witness, 4(1) notification was issued on 04.12.1989 and the possession of the acquired land was also taken over on the said date. The sales statistics relating to the village between 02.02.1989 and 01.02.1990 given by the Sub Registrar, Chennimalai has been marked as Ex.R.2. The Village sketch showing the

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acquired land, data land and the adjacent properties has been marked as Ex.R.3.

6.The Trial Court in the impugned judgment has discussed the details for fixing the market value for the acquired land. It is seen that C.W.2 has deposed that on 10.02.1988, for the purpose of constructing Textile Shed, he approached the respondent/claimant in A.S.No.248/1996 for purchasing the land and asked Rs.60,000/- per acre but the witness C.W.2 offered only for Rs.45,000/- per acre, which was not accepted by the respondent/claimant. As per Ex.C.1 copy of the sale deed dated 10.02.1988, a land in S.No.798 has been sold at Rs.45,000/- per acre. The said sale has been shown in Sl.No.37 of the sales statistics Ex.R.2. But the Land Acquisition Officer rejected the aforesaid sale deed stating that the price was exorbitant. Admittedly, 1 acre out of 10.74 acres of land was purchased at the rate of Rs.45,000/- per acre as per the document. It is not in dispute that the acquired land is located very nearer to the main road.

7.The Land Acquisition Officer, considering the data sale deed relating to S.No.51 in Ex.R.2, has fixed the compensation, whereby, 2.18 1/2 acres of land had been sold at Rs.15,000/- per acre, the market value for the acquired land was fixed at Rs.68.65/- per cent. But it is seen from Ex.R.3 sketch that the above said data land is located far away from the main road whereas, the acquired land is abutting the main road and that the land in Sl.No.37 is a similarly situated land, that had been sold at Rs.45,000/- per acre. Admittedly, the sale has taken place prior to the date of 4(1) notification and the extent was also 1 acre out of 10.74 acres of land. Further, considering the developmental activities, the Tribunal has fixed the marked value of the acquired land of 0.51.0 hectares (1.26) acres at the rate of Rs.37,500/- per acre and accordingly for the acquired land, Rs.47,250/- was ordered to be paid with 30% solatium and 12% Additional amount from the date of 4(1) notification dated 04.12.1989 till the date of award dated 26.11.1991 with subsequent interest and costs as per Section 23 of the Land Acquisition Act.

8.The Land Acquisition Tribunal, considering the sale deed Ex.C.1 dated 10.02.1988, has decided the market value of the acquired land at Rs.45,000/- per acre. It relates to the land in S.No.798/3, which was sold at Rs.45,000/- per acre. The sale deed Ex.C.1 had been executed nearly two years prior to the date of 4(1) notification under the Land Acquisition Act. Further, the acquired land is abutting the North-West main road shown in Ex.R.3, sketch. Both the land relating to Ex.C1 and the acquired land are similarly placed lands, whereas, the Land Acquisition Officer had taken the land in S.No.807, which is admittedly far away from the main road. Hence, it could not be construed as a similarly placed lands for deciding the market value of the acquired land. While computing the market value

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of the property, the Land Acquisition Tribunal has deducted Rs.7,500/- and fixed the acquired value at Rs.37,500/- per acre.

9.Mr. B.Eswaran, learned counsel appearing for the appellant/claimant in A.S.No.647 of 1997 submits that the sale deed Ex.C.1 was two years prior to the date of 4(1) notification. Therefore, considering the same, the value of the property has to be enhanced as decided by the Hon'ble Apex Court and this Court in various cases, the normal appreciation of market value of 10% per annum which could reasonably be added while computing the market value, as per Ex.C.1. Considering the aforesaid facts and circumstances, this Court is of the view to fix the market value of the acquired land at Rs.45,000/- per acre only on par with the land described in Ex.C.1 without any deduction in the market value of the property. Accordingly, to meet the ends of justice, the Referring Officer/Special Tahsildar (Adi Dravidar Welfare), Kangeyam is to be directed to pay compensation at the rate of Rs.45,000/- per acre with 30% solatium, 12% additional amount, interest and proportionate cost as per Section 23 of the Land Acquisition Act.

10.In the result, the appeal in A.S.No.647 of 1997 preferred by the claimant is partly allowed on the above terms and the appeal in A.S.No.248 of 1996 preferred by the Referring Officer/Special Tahsildar, (Adi Dravidar Welfare), Kangeyam is dismissed. However, in this appeals, both parties are directed to bear their own costs.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

jrl

To
1. The Subordinate Judge,
Dharapuram.
2. The Section Officer, VR Section,
High Court, Madras.
+ 1 CC To Mr.B.Bagyalakshmi, Advocate SR NO.72028

A.S.No.248 of 1996
and
A.S.No.647 of 1997

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